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W.A.Nos.267 to 270 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 24-01-2024

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.Nos.267 to 270 of 2024

The Commissioner,
Tambaram Corporation
(Formerly Tambaram Municipality),
Tambaram,
Chennai – 600 045.

...

Appellant in all Appeals

-VS-

The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office,
3, Rajaji Salai, Tambaram,
Chennai – 600 045.

...

Respondent in all Appeals

W.A.No.267 of 2024 is filed under Clause 15 of the Letters Patent against the order, dated 12.10.2023, passed in W.P.No.28748 of 2023 on the file of this Court.

W.A.No.268 of 2024 is filed under Clause 15 of the Letters Patent against the order, dated 12.10.2023, passed in W.P.No.28747 of 2023 on the file of this Court.



W.A.No.269 of 2024 is filed under Clause 15 of the Letters Patent against the order, dated 12.10.2023, passed in W.P.No.28742 of 2023 on the file of this Court.

W.A.No.270 of 2024 is filed under Clause 15 of the Letters Patent against the order, dated 12.10.2023, passed in W.P.No.28738 of 2023 on the file of this Court.

For Appellant in all W.As.: Mr.P.S.Raman,
Advocate General,
assisted by Mr.P.Srinivas.

For Respondent in all W.As.: Mr.R.Thirunavukkarasu,
Standing Counsel.

COMMON JUDGMENT
(By *S.Vaidyanathan,J.*)

These intra court appeals have been preferred by Tambaram Corporation, questioning the order of the learned single Judge, dated 12.10.2023, dismissing the appals filed under Section 7 (A) of the Employees Provident Funds and Miscellaneous Provisions Act,1952, in short, "the Act", on the ground that the interim order directing the appellant Corporation to deposit 35% of the amount determined under Section 7 (A) of the Act was perfectly in order.

2. According to Mr.P.S.Raman, learned Advocate General, appearing for the appellant Corporation, the quantum has not been determined and that the total



number of employees is also under dispute. He would further submit that the entire amount based on the records has been taken and, on the basis of assumption, the amount has been determined by the authority under Section 7 (A) of the Act.

3. Aggrieved over the decision of the authority under the above said provision, appeals were filed before the Employees' Provident Funds Appellate Tribunal in time and, as the amount determined was exorbitant, which was approximately Rs.25.00 crores, waiver petitions were filed. The Tribunal, after hearing the parties, passed a conditional order that the appeals would be entertained on deposit of 35% of the amount determined by the authority under Section 7 (A) of the Act. Since the amount determined was not paid, the Tribunal dismissed the appeals on the ground of non-compliance of the conditional order. Challenging the said orders, Writ Petitions were filed and the learned single Judge, by a common order, dated 12.10.2023, has dismissed a batch of cases, on the ground that the condition stipulated by the Tribunal in the waiver petitions was not complied with and that the Tribunal was right in dismissing the appeals.

4. At the appellate stage, Mr.P.S.Raman would submit that the Corporation is now willing to deposit the amount of 35% as ordered by the Tribunal and that they have to pay a sum of Rs.1.40 crores alone, as already a sum of Rs.3.00 crores has been paid on 02.02.2023 and another sum of Rs.4.00 crores was attached on 23.12.2023. According to him, out of Rs.8.40 cores payable in terms of the orders of the Tribunal,



already, Rs.7.00 crores has been paid to the respondent EPFO and that they have to pay only Rs.1.40 crores, which they are willing to pay now. He would further submit that if the entire funds are attached, the Corporation cannot function and that all the employees and their families will be put to peril.

5. Conversely, Mr.R.Thirunavukkarasu, learned counsel for the respondent EPFO, has drawn the attention of this Court to a decision of this Court in W.A.No.765 of 2023, dated 29.03.2023, and also another decision in W.A.No.370 of 2020, dated 10.07.2023, to contend that in view of non-compliance of the interim order passed by the Tribunal, the Tribunal was right in rejecting the appeals. He would further submit that this Court has passed an order holding that it is the duty on the part of the Corporation to deposit the entire amount with the respondent EPFO and that any amount payable by the contractors can be recovered from the said contractors. He also drew the attention of this Court to the proceedings of Commissioner of Municipal Administration to the Commissioners of Tiruchirapalli, Tambaram and Avadi Municipal Corporations to the effect that the Corporations are to comply with the directions of the Court and that EPFO amount need to be paid periodically.

6. The two decisions and the communication, referred to by the respondent, do not touch the merit of the matter. Hence, we are not inclined to render any finding on the submissions made by the learned counsel for the respondent EPFO. The issue before this Court is, if the condition precedent, imposed in the orders of waiver



8. Mr.Raman has submitted that he would instruct the appellant Corporation to deposit Rs.3.00 crores within a period of one week from the date of receipt of this order.



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9. If any funds are lying in the bank, it is open for the respondent EPFO to attach Rs.3.00 crores and permit the Corporation to operate the Bank account, after adjusting the amount of Rs.3.00 crores. This amount of attachment/recovery is only an interim arrangement and without prejudice to the rights of both the parties before the Tribunal. We expect the Tribunal to take up the matter on day-to-day basis by not adjourning the matter beyond seven working days at any point of time and render a finding within six months from the date of receipt of this order. We also expect the appellant Corporation to depute an exclusive person, who is well versed with the subject, to assist the Court/Tribunal and cooperate with the Tribunal to take a decision within the time stipulated supra. It is open for the parties to avail all legal and factual pleas available to them before the Tribunal, including *locus*.

10. Writ Appeals are disposed of accordingly. No costs. Consequently, the connected C.M.P.Nos.1674, 1675, 1677 and 1679 of 2024 are closed.

Index : Yes/No
Internet : Yes/No
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(S.V.N.,J.) (K.R.S.,J.)
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To
The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office,
3, Rajaji Salai, Tambaram,
Chennai – 600 045.



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